

before introducing or delivering for introduction into interstate commerce for commercial distribution the device when:

(a) The device is intended for a use different from the intended use of a legally marketed device in that generic type of device; e.g., the device is intended for a different medical purpose, or the device is intended for lay use where the former intended use was by health care professionals only;

(b) The modified device operates using a different fundamental scientific technology than a legally marketed device in that generic type of device; e.g., a surgical instrument cuts tissue with a laser beam rather than with a sharpened metal blade, or an in vitro diagnostic device detects or identifies infectious agents by using deoxyribonucleic acid (DNA) probe or nucleic acid hybridization technology rather than culture or immunoassay technology; or

(c) The device is an in vitro device that is intended:

(1) For use in the diagnosis, monitoring, or screening of neoplastic diseases with the exception of immunohistochemical devices;

(2) For use in screening or diagnosis of familial or acquired genetic disorders, including inborn errors of metabolism;

(3) For measuring an analyte that serves as a surrogate marker for screening, diagnosis, or monitoring life-threatening diseases such as acquired immune deficiency syndrome (AIDS), chronic or active hepatitis, tuberculosis, or myocardial infarction or to monitor therapy;

(4) For assessing the risk of cardiovascular diseases;

(5) For use in diabetes management;

(6) For identifying or inferring the identity of a microorganism directly from clinical material;

(7) For detection of antibodies to microorganisms other than immunoglobulin G (IgG) or IgG assays when the results are not qualitative, or are used to determine immunity, or the assay is intended for use in matrices other than serum or plasma;

(8) For noninvasive testing as defined in § 812.3(k) of this chapter; and

(9) For near patient testing (point of care).

[65 FR 2316, Jan. 14, 2000]

Subpart B—Diagnostic Devices

§ 876.1075 Gastroenterology-urology biopsy instrument.

(a) *Identification.* A gastroenterology-urology biopsy instrument is a device used to remove, by cutting or aspiration, a specimen of tissue for microscopic examination. This generic type of device includes the biopsy punch, gastrointestinal mechanical biopsy instrument, suction biopsy instrument, gastro-urology biopsy needle and needle set, and nonelectric biopsy forceps. This section does not apply to biopsy instruments that have specialized uses in other medical specialty areas and that are covered by classification regulations in other parts of the device classification regulations.

(b) *Classification.* (1) Class II (performance standards).

(2) Class I for the biopsy forceps cover and the non-electric biopsy forceps. The devices subject to this paragraph (b)(2) are exempt from the pre-market notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9.

[48 FR 53023, Nov. 23, 1983, as amended at 61 FR 1122, Jan. 16, 1996; 66 FR 38801, July 25, 2001]

§ 876.1300 Ingestible telemetric gastrointestinal capsule imaging system.

(a) *Identification.* An ingestible telemetric gastrointestinal capsule imaging system is used for visualization of the small bowel mucosa as an adjunctive tool in the detection of abnormalities of the small bowel. The device captures images of the small bowel with a wireless camera contained in a capsule. This device includes an ingestible capsule (containing a light source, camera, transmitter, and battery), an antenna array, a receiving/recording unit, a data storage device, computer software to process the images, and accessories.

(b) *Classification.* Class II (special controls). The special control is FDA's guidance, "Class II Special Controls

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Guidance Document: Ingestible Telemetric Gastrointestinal Capsule Imaging Systems; Final Guidance for Industry and FDA.”

[67 FR 3433, Jan. 24, 2002]

§ 876.1400 Stomach pH electrode.

(a) *Identification.* A stomach pH electrode is a device used to measure intragastric and intraesophageal pH (hydrogen ion concentration). The pH electrode is at the end of a flexible lead which may be inserted into the esophagus or stomach through the patient's mouth. The device may include an integral gastrointestinal tube.

(b) *Classification.* Class I. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter.

[48 FR 53023, Nov. 23, 1983, as amended at 61 FR 1122, Jan. 16, 1996]

§ 876.1500 Endoscope and accessories.

(a) *Identification.* An endoscope and accessories is a device used to provide access, illumination, and allow observation or manipulation of body cavities, hollow organs, and canals. The device consists of various rigid or flexible instruments that are inserted into body spaces and may include an optical system for conveying an image to the user's eye and their accessories may assist in gaining access or increase the versatility and augment the capabilities of the devices. Examples of devices that are within this generic type of device include cleaning accessories for endoscopes, photographic accessories for endoscopes, nonpowered anosopes, binocular attachments for endoscopes, pocket battery boxes, flexible or rigid choledochoscopes, colonoscopes, diagnostic cystoscopes, cystourethroscopes, enteroscopes, esophagogastrroduodenoscopes, rigid esophagoscopes, fiberoptic illuminators for endoscopes, incandescent endoscope lamps, biliary pancreatoscopes, proctoscopes, resectoscopes, nephroscopes, sigmoidoscopes, ureteroscopes, urethroscopes, endomagnetic retrievers, cytology brushes for endoscopes, and lubricating jelly for transurethral surgical instruments. This section does not apply to endoscopes that have specialized uses in other medical specialty areas and

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that are covered by classification regulations in other parts of the device classification regulations.

(b) *Classification.* (1) Class II (performance standards).

(2) Class I for the photographic accessories for endoscope, miscellaneous bulb adapter for endoscope, binocular attachment for endoscope, eyepiece attachment for prescription lens, teaching attachment, inflation bulb, measuring device for panendoscope, photographic equipment for physiologic function monitor, special lens instrument for endoscope, smoke removal tube, rechargeable battery box, pocket battery box, bite block for endoscope, and cleaning brush for endoscope. The devices subject to this paragraph (b)(2) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 876.9.

[48 FR 53023, Nov. 23, 1983, as amended at 61 FR 1122, Jan. 16, 1996; 66 FR 38801, July 25, 2001]

§ 876.1620 Urodynamics measurement system.

(a) *Identification.* A urodynamics measurement system is a device used to measure volume and pressure in the urinary bladder when it is filled through a catheter with carbon dioxide or water. The device controls the supply of carbon dioxide or water and may also record the electrical activity of the muscles associated with urination. The device system may include transducers, electronic signal conditioning and display equipment, a catheter withdrawal device to enable a urethral pressure profile to be obtained, and special catheters for urethral profilometry and electrodes for electromyography. This generic type of device includes the cystometric gas (carbon dioxide) device, the cystometric hydraulic device, and the electrical recording cystometer, but excludes any device that uses air to fill the bladder.

(b) *Classification.* Class II (special controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 876.9.

[48 FR 53023, Nov. 23, 1983, as amended at 63 FR 59228, Nov. 3, 1998]